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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,353	12/27/2006	Naoki Kanada	2565-0300PUS1	9553

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EXAMINER	
DEAN, JR, JOSEPH E	

ART UNIT	PAPER NUMBER
4154	

NOTIFICATION DATE	DELIVERY MODE
11/13/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/591,353	KANADA ET AL.	
	Examiner	Art Unit	
	JOSEPH DEAN, JR	4154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 December 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☒ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 12 and 13 are rejected under 35 U.S.C 101 as being directed to non-statutory subject matter.

Functional descriptive material such as computer programs and/or data\ structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. See MPEP 2106.01(I). **In the instant case, claim(s) do not meet the test above and therefore are rejected as non-statutory subject matter.**

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, 7 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Green (US 5,926,133).

Per claim 1, Green discloses a mobile station which communicates with a base station by using direct sequence system (Fig. 5, Rover 16; col. 6, lines 34-39), comprising: a special call part to request to initiate a special call (col. 3 lines 64-66; col. 15, lines 9-12); and a mobile station side transmission part (Fig 5, Rover 16), in response to a request from the special call part (col. 3 line 66, col. 6 lines 61-63), to generate a special radio wave signal of high power spectrum density and transmit it to the base station (Col. 6 lines 61-63).

Per claim 5, Green discloses the mobile station of claim 1, wherein the mobile station side transmission part performs communication by using the special radio wave signal until a session with the base station is established (col.6 lines 29-39 and 45-60.

Per claim 7, refer to same rationale explained in claim 1.

Per claim 12, refer to same rationale explained in claim 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of van Heeswyk et al. (US6298050) (hereinafter van Heeswyk) and in view of Levin et al. (US5654979) (hereinafter Levin)

Per claim 4, Green discloses the mobile station of claim 2 or 3 as applied to claim 1, but does not disclose further including a communication control part to restrict a bit

rate of the information signal to be low when the mobile station side transmission part generates the special radio wave signal, in order to increase power spectrum density of the special radio wave signal by restricting the bit rate to be low.

However, van Heeswyk discloses further including a communication control part of the information signal to be low (col. 2 lines 5-12) when the mobile station side transmission part generates the special radio wave signal (col.2 lines 5-12), in order to increase power spectrum density of the special radio wave signal by restricting the bit rate to be low (col.2 lines 5-12).

Van Heeswyk fails to disclose to restrict a bit rate.

However, Levin discloses to restrict a bit rate (col. 6 lines 48-54)

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Green and van Heeswyk and Levin as a whole to produce the invention as claimed with reasonable expectation of achieving connectivity with low voice activity under emergency situations.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Kumar (US20010050926).

Per claim 6, Green discloses the mobile station of claim 1, but fails to disclose wherein the mobile station side transmission part generates the special radio wave signal of same power as power used in the direct sequence system, and of a narrower band than a band used in the direct sequence system.

Kumar discloses wherein the mobile station side transmission part generates the special radio wave signal of same power as power used in the direct sequence system, and of a narrower band than a band used in the direct sequence system (paragraph 0023).

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Green and Kumar as a whole to produce the invention as claimed with reasonable expectation of achieving distinction from ordinary communication.

8. Claim 2 is rejected under 35 U.S.C 103(a) as being unpatentable over Green in view of Gorman et al. (US4513413) (hereinafter Gorman).

Per claim 2, Green discloses the mobile station of claim 1, wherein the mobile station side transmission part generates the special radio wave signal of high power spectrum density (col. 6 lines 23-28 and 61-63), but fails to disclose comprising a spread modulation part to perform spread modulation of an information signal and by bypassing the spread modulation part.

Gorman discloses comprising a spread modulation part to perform spread modulation of an information signal and by passing the spread modulation part (col. 11 lines 53-62 .i.e. signal are bypassing modulation and demodulation)

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Green and Gorman as a whole to produce the invention as claimed with reasonable expectation of achieving connectivity with end user or users.

9. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Ma (US20050100082).

Per claim 9, Green discloses the base station of claim 8 applied in claim 1, but fails to disclose wherein the base station side reception part includes a special signal reception part to receive the special radio wave signal to acquire an information signal without performing spread demodulation.

Ma discloses wherein the base station side reception part includes a special signal reception part to receive the special radio wave signal to acquire an information signal without performing spread demodulation (Abstract and paragraph 0043-0045)

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Green and Ma as a whole to produce the invention as claimed with reasonable expectation of achieving less noise and interference.

Per claim 10, Green discloses the base station of claim 8 as applied to claim 1, but fails to disclose wherein the base station side reception part includes a special signal reception part to receive the special radio wave signal and to acquire an information signal by performing spread demodulation of the special radio wave signal by using a special code of a direct-current component.

Ma discloses wherein the base station side reception part includes a special signal reception part to receive the special radio wave signal and to acquire an information signal by performing spread demodulation of the special radio wave signal

by using a special code of a direct-current component (Abstract 0044-0046 i.e. at normalization stage demodulation takes place).

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Green and Ma as a whole to produce the invention as claimed with reasonable expectation of achieving accurate data sent by mobile station.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view Kusaka et al. (US20010026542) (hereinafter Kusaka).

Per claim 3,Green discloses the mobile station of claim 1, wherein the mobile station side transmission part generates the special radio wave signal of high power spectrum density (col. 6, lines 61-63), but fails to disclose wherein the mobile station side transmission part includes a special code generation part to generate a special code of a direct-current component, and a spread modulation part to perform spread modulation of an information signal by using the special code generated by the special code generation part, and generating the special radio wave by performing spread modulation of the information signal by using the special code of the direct-current component.

Kusaka discloses wherein the mobile station side transmission part includes a special code generation part to generate a special code of a direct-current component (paragraph 0004, and 0032), and a spread modulation part to perform spread modulation of an information signal by using the special code generated by the special code generation part (paragraphs 0004, 0005 and 0033), and the mobile station side

transmission part generates the special radio wave signal of high power spectrum density (abstract and paragraph 0040) by performing spread modulation (paragraph 0004) of the information signal by using the special code (paragraph 0004 and 0032) of the direct-current component).

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Green and Kusaka as a whole to produce the invention as claimed with reasonable expectation of achieving noise reduction and efficiency.

11. Claim 8, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view Raith et al. et al. (US6826394) (hereinafter Raith).

Per claim 8, Green discloses a base station which communicates with a plurality of mobile stations by using direct sequence system (col. 6, lines 34-39), comprising: a base station side reception part to receive a special radio wave signal of high power spectrum density from the plurality of mobile stations (col. 6 lines 29-34); a detection part to detect whether the base station side reception part received the special radio wave signal (col. 7 lines 19-23); but fails to disclose a base station side transmission part to transmit an assignment signal for assigning a channel to a mobile station which had transmitted the special radio wave signal detected by the detection part

Raith discloses part to transmit an assignment signal for assigning a channel to a mobile station which had transmitted the special radio wave signal (col. 5 lines 35-49) detected by the detection part (col.5 lines 35-49, i.e. emergency flag)

Motivation to combine may be gleaned from the prior art contemplated.

Therefore, one skilled in the art would have found it obvious from the combined teachings of Green and Raith as a whole to produce the invention as claimed with reasonable expectation of achieving connectivity via channel assignment for emergencies.

Per claim 11, refer to same rationale explained in claim 1 and 8.

Per claim 13, refer to same rationale explained in claim 8.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH DEAN, JR whose telephone number is (571)270-7116. The examiner can normally be reached on Monday through Friday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VU Le can be reached on 571-272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOSEPH DEAN, JR/
Examiner, Art Unit 4154

/Vu Le/
Supervisory Patent Examiner, Art Unit 4154